

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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INNOVATIVE SPORTS MANAGEMENT INC.,	:
Plaintiff,	:
– against –	:
	:
TRIANGLE EATERY & BAR, LLC, PIETRO	:
MANETTA,	:
Defendants.	:
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**ORDER ADOPTING REPORT
AND RECOMMENDATION**

21-CV-6909 (AMD) (RER)

ANN M. DONNELLY, United States District Judge:

On December 15, 2021, the plaintiff filed this action seeking statutory damages for satellite and cable piracy related to the defendants’ alleged showcase of a 2018 boxing program to its patrons without paying commercial sublicensing fees. (ECF No. 1.) On February 17, 2022, the plaintiff’s process server attempted service on defendants Pietro Manetta and Triangle Eatery & Bar, LLC by leaving a copy of the Summons and Complaint with a person named “Nina” who was described as a “co-occupant” of Manetta’s and a “member” of the LLC. (ECF Nos. 5, 6.) The process server also mailed copies of the Summons and Complaint to the same address. (*Id.*)

On August 16, 2022, the plaintiff moved for default judgment. (ECF No. 10.) I referred the motion to the Honorable Ramon Reyes, who issued a report and recommendation on December 14, 2022, recommending that the Court deny the plaintiff’s motion for failure to timely serve the defendants under Federal Rule of Procedure 4(m), and that this action be dismissed. (ECF No. 13.) Judge Reyes determined that the plaintiff did not satisfy its burden of demonstrating that either defendant was properly served under New York law. Although this

alone would be enough to deny the plaintiff's motion, Judge Reyes identified additional independent grounds—noncompliance with the Servicemembers Civil Relief Act and Local Civil Rule 55.2(c)—for denial. Judge Reyes recommended against granting a discretionary extension of time to effectuate service. No party has filed an objection to the report and recommendation and the time for doing so has passed.

A district court reviewing a report and recommendation “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). To accept a report and recommendation to which no timely objection has been made, “a district court need only satisfy itself that there is no clear error on the face of the record.” *VOX Amplification Ltd. v. Meussdorffer*, 50 F. Supp. 3d 355, 369 (E.D.N.Y. 2014).

I have carefully reviewed Magistrate Judge Reyes' thorough report and recommendation for clear error and find none. Accordingly, I adopt the report and recommendation in its entirety. The plaintiff's motion for default judgment is DENIED and this action is DISMISSED without prejudice for failure to timely serve the defendants under Federal Rule of Civil Procedure 4(m).

SO ORDERED.

s/Ann M. Donnelly

ANN M. DONNELLY
United States District Judge

Dated: Brooklyn, New York
January 09, 2023